REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 1-8, 21, and 24-27, drawn to a cholesteric layered material;

Group II: Claims 9-20 and 28-29, drawn to a process for the production of a cholesteric layered material; and

Group III: Claims 30-35, drawn to a method of making an article incorporating the cholesteric layered material.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. M.P.E.P. § 803.

Applicants respectfully traverse the requirement for restriction on the grounds that the Office has not provided adequate reasons and/or examples to support a conclusion of patentable distinctness between the identified groups.

The Office has characterized the inventions of Groups II and I as related as process of making and product made. Citing M.P.E.P. § 806.05(f), the Office states that the "process of casting and simultaneous alignment of the coating composition can be made by a different process in which the material can be prepared by applying [a] polymerizable mixture to a surface, orienting the liquid crystals present in the mixture, polymerizing the mixture and detaching the polymer film and comminuting the polymer to form the particles."

Applicants fail to see how a "process of casting and simultaneous alignment of a coating composition" can be "made by a different process". Applicants respectfully point out

mixture to a surface, orienting the liquid crystals present in the mixture, polymerizing the mixture and detaching the polymer film and comminuting the polymer to form the particles", the Office has still failed to show that the invention of Group I can be made by the proposed alternative process, or that the proposed alternative process is materially different from the invention of Group II. Accordingly, Applicants respectfully submit that the Requirement for Restriction is improper, and request that it be withdrawn.

In regard to the invention of Group III, the Office simply states that it "is distinct because it refers to making an article that incorporates the material." However, the Office has failed to state what the invention of Group III "is distinct" from. Furthermore, even if the Office intended to state that the invention of Group III is distinct from, for example, the invention of Group II, the Office has failed to provide any reasons or examples to support this allegation. Rather, the Office has merely stated a conclusion. Accordingly, Applicants respectfully submit that the Requirement for Restriction is improper, and request that it be withdrawn.

Moreover, M.P.E.P. § 803 states:

> If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

Applicants respectfully submit that a search of all of the claims would not impose a serious burden on the Office.

Finally, Applicants note that M.P.E.P. § 821.04 states, "if Applicants elects claims [illegible] product claim is subsequently found allowable, withdrawn

product claim will be rejoined." Applicants respectfully submit that should the elected group be found allowable, the non-elected claims should be rejoined.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. Applicants therefore request that the requirement for restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully submitted,

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